

FYI – For Your Information

Colorado Civil Tax Penalties and Interest

PENALTIES

In general, penalties are cumulative. However, there are some exceptions, and some caps. Maximum penalties for a tax could be any combination of the penalties listed under each tax type.

Corporate Officers Penalty

All officers of a corporation and all members of a partnership or a limited liability company who are required to but do not collect, account for, and pay over any tax administered by the Colorado Department of Revenue are subject to a penalty equal to 150 percent of the total amount of the tax not collected, accounted for, paid over, or otherwise evaded. [§39-21-116.5, C.R.S.]

- Fraudulent or Willful Failure to File: Greater of \$75 or 100% of tax due. §39-22-621(2)(d), C.R.S.
- Filing of Fraudulent, Frivolous or Willfully False Return: Greater of \$150 or 150% of tax due. §39-22-621(2)(e), C.R.S.
- Failure to Pay a Notice or Demand For Payment (collection penalty): 15% of tax demanded. §39-22-621(2)(f), C.R.S.
- Fraudulent Failure to Pay or Willful Evasion of Payment: 150% of tax due. §39-22-621(2)(g), C.R.S.
- Tax Return Preparers Penalty: \$500 per occurrence. §39-22-621(2)(g.5), C.R.S.

INCOME AND WITHHOLDING TAX

- Interest: See table, page 3.
- Failure to File Penalty: Greater of \$5 or 5% of tax due for first month or fraction thereof, plus 1/2% each additional month or fraction thereof, not to exceed 12%. §39-22-621(2)(a), C.R.S.
- Delinquent Payment Penalty: Greater of \$5 or 5% of tax due for first month or fraction thereof, plus 1/2% each additional month or fraction thereof, not to exceed 12%. §39-22-621(2)(b), C.R.S.
- Recurring Distraint Warrant Penalties: Greater of \$25 or 15% of tax, penalty and interest due. §39-21-114(7)(a), C.R.S., or greater of \$50 or 30% of tax, penalty and interest due. §39-21-114(7)(b), C.R.S.
- Deficiency Due to Negligence: 25% of the deficiency. §39-22-621(2)(h), C.R.S.

STATE SALES, COUNTY SALES, CITY SALES, RTD/CD/FD SALES, RETAILER'S USE AND CONSUMER USE TAX

- Sales/Use Interest: See table, page 3.
- Consumer Use Delinquent Payment Penalty: Penalty-interest (see table, page 3). §39-26-207, C.R.S.
- Sales/Use Deficiency Due to Negligence: 10% of tax due plus penalty-interest (see table, page 3). §39-26-115 C.R.S.. Also, loss of vendor's fee. §39-26-105(1), C.R.S.
- Sales Tax Late Filing or Late Payment Penalty: Greater of \$15 or 10% of tax due plus 1/2% per month not to exceed 18%. §39-26-118(2)(a), C.R.S.
- Sales Tax Nonfiler Penalty: Greater of \$15 or 10% plus 1/2% per month not to exceed 18%. §39-26-118(2), C.R.S.



Colorado Department
of Revenue
Taxpayer Service Division
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Denver, Colorado 80261

Forms and other services:
(303) 238-FAST (3278)
Assistance:
(303) 238-SERV (7378)
Fuel Tax: (303) 205-8205
www.taxcolorado.com

- Retailer's Use Tax and Consumers Use Tax Nonfiler Penalty: 10% plus 1/2% per month. §39-26-204(5), C.R.S.
- Sales/Use Deficiency Due to Fraud: 100% of deficiency plus 3% per month. §39-26-115, C.R.S.
- Unregistered Vending Machine: \$25. §39-26-714(d), C.R.S.

Penalties and interest in this sales tax section apply to state-collected taxes **only**. Home-rule jurisdictions which are self-collected may make their own regulations regarding the taxability of items, and interest and penalties on unpaid tax. You must contact a home-rule city directly for its tax regulations. A list of addresses and phone numbers for self-collected areas is contained in "Colorado Sales/Use Tax Rates" (DR 1002), a publication available from the Colorado Department of Revenue. For a copy visit the Web site at www.taxcolorado.com. The publication is updated each January and July.

RTD/CD/FD refers to the combined special taxing district comprising the Regional Transportation District, the Scientific and Cultural Facilities District, and the Metropolitan Football Stadium District.

Some counties have different combinations of the RTD/CD/FD area taxes. The different areas are detailed in the "Colorado Sales and Use Tax Rates" publication DR 1002 located on the Web at www.taxcolorado.com

GASOLINE, GASOHOL, MTBE, SPECIAL FUEL TAX AND ENVIRONMENTAL RESPONSE SURCHARGE

- Interest: See table, page 3.
- Late Filer and/or Delinquent Payment Penalty: Greater of \$30 or 10% plus 1/2% per month not to exceed 18%. §39-27-105(2), C.R.S.
- Nonfiler or Incorrect Filer Penalty: 30% of tax. §39-27-105(3), C.R.S.

INTERNATIONAL FUEL TAX AGREEMENT (IFTA)

- Interest: Interest will be assessed at the rate of one percent per month for each state for which tax is due.
- Delinquent filing and/or payment penalty: Greater of \$50 or 10% of tax due. (R1220.100 — IFTA Articles of Agreement)

PASSENGER MILE TAX

- Interest: See table, page 3.
- Delinquent Payment Penalty: 3% per month. §42-3-136 (1)(b), C.R.S.
- Nonfiler Penalty: 10% plus 1/2% per month not to exceed 18%. §42-3-136 (2), C.R.S.
- Assessment Penalty: 25% plus penalty/interest of 1/2% per month. §42-3-137 (5), C.R.S.
- Filing of False or Fraudulent Return: 100% of deficiency. §42-3-136 (3)(a), C.R.S.

FERMENTED MALT BEVERAGES (3.2 BEER) AND ALCOHOL BEVERAGES

- Interest: 1% per month or fraction thereof on tax and penalty. §12-47-503(7), C.R.S.
- Delinquent Payment Penalty: 10% of tax due. §12-47-503(7), C.R.S.

CIGARETTE TAX AND TOBACCO PRODUCTS TAX

- Interest: See table below.
- Delinquent Payment Penalty: 10% plus 1/2% per month not to exceed 18%. §39-28-108(2)(b), C.R.S. and §39-28.5-110(2)(b), C.R.S.
- Cigarette Tax Nonfiler Penalty: \$100. §39-28-108(2)(a), C.R.S.
- Tobacco Products Tax Nonfiler Penalty: \$25. §39-28.5-110(2)(a), C.R.S.
- Unstamped Cigarette Penalty: \$.25 per cigarette. §39-28-107, C.R.S.
- Untaxed Tobacco Product Penalty: 500% of the tax due. §39-28.5-106(4)(b), C.R.S.

SEVERANCE TAX AND OIL & GAS WITHHOLDING

- Interest: See table below.
- Delinquent Payment Penalty: Greater of \$30 or 30% of tax due.
§39-29-115(1), C.R.S.
- Assessment Penalty: 10% plus penalty/interest of 1/2% per month.
§39-29-115(2), C.R.S.

TABLE OF INTEREST AND PENALTY-INTEREST RATES
[§39-21-110.5 C.R.S.]

Underpayment Period	Annual Rate	Monthly Rate	Daily Rate
2001 (a)	10%	.8333%	.027397%
2001 (b)	13%	1.0833%	.035616%
2002 (a)	7%	.5833%	.019178%
2002 (b)	10%	.8333%	.027397%
2003 (a)	5%	.4166%	.013699%
2003 (b)	8%	.6667%	.021918%
2004 (a)	4%	.3333%	.010959%
2004 (b)	7%	.5833%	.019126%
2005 (a)	4%	.3333%	.010959%
2005 (b)	7%	.5833%	.019178%
2006 (a)	6%	.5000%	.016438%
2006 (b)	9%	.7500%	.024658%
2007 (a)	8%	.6667%	.021918%
2007 (b)	11%	.9167%	.030137%
2008 (a)	8%	.6667%	.021858%
2008 (b)	11%	.9167%	.030055%
2009 (a)	5%	.4166%	.013699%
2009 (b)	8%	.6667%	.021918%
2010 (a)	3%	.2500%	.008219%
2010 (b)	6%	.0500%	.016438%

- (a) Rate applies if payment of tax, or agreement to pay, is made within 30 days of notice of underpayment or nonpayment. This rate also applies when a tax underpayment or nonpayment is cured voluntarily without notification from the Department of Revenue.
- (b) Rate applies in all other cases.

“*Penalty-interest*” is a penalty which is assessed on the tax due, based upon the rates in the above table. When penalty-interest is applied, it is **in addition** to interest.

RETURN CHECK PENALTY

The civil penalty assessed when a check is returned due to insufficient funds, a closed account, or a stop payment order is \$41.

INTEREST CALCULATION

Interest on a balance due is calculated using a “simple interest” calculation. The interest rate(s) from the Table of Interest and Penalty-Interest Rates is the rate(s) that applies to the time period during which the amount is actually owed. If the balance due is paid in the same year as the tax is due, then only one interest rate is used to calculate the interest due.

However, if the balance due is paid in a later year, then the interest rates for all years during which the tax is owed must be used to compute the interest due.

Example: Neil files his 2006 income tax return on the due date of April 15, 2007. He does not pay the \$200 balance due until June 7, 2009. The simple interest rate is computed by adding the interest rates for each year during the underpayment period; 4/15/2007 to 12/31/2007 @ 11% (7.86%), 1/1/2008 to 12/31/2008 @ 11% (11%), 1/1/2009 to 6/7/2009 @ 8% (3.33%). Multiply the aggregate interest rate of 22.19% times the \$200 net balance due to compute the interest due of \$44.38.

Interest rates are available for tax years 2010 and earlier. These prior year rates are found in the Tax Information Index under the Interest Rates topic. The Tax Information Index is located on the Web at www.taxcolorado.com

FURTHER INFORMATION

FYIs, publications, commonly used forms and additional tax information are available on the Web at www.taxcolorado.com

For additional tax information visit the "Tax Information Index" which covers a variety of topics including links to forms, publications, regulations, statutes and general questions and answers. The "Tax Information Index" is located on the Web at www.taxcolorado.com

FYIs provide general information concerning a variety of Colorado tax topics in simple and straightforward language. Although the FYIs represent a good faith effort to provide accurate and complete tax information, the information is not binding on the Colorado Department of Revenue, nor does it replace, alter or supersede Colorado law and regulations. The Executive Director, who by statute is the only person having authority to bind the Department, has not formally reviewed and/or approved these FYIs.